

## REMARKS

### Status of the Claims

Applicants respectfully submit that the amendments and remarks presented herein put the claims in condition for allowance, and respectfully request reconsideration thereof.

Claims 1-26, 28-78, 84-91 and 181-447 are pending and have been examined. Claims 1, 184, 272 and 360 have been amended herein to more particularly point out and distinctly claim applicants' invention. No new matter has been added by these amendments.

Upon entry of the above amendments, claims 1-26, 28-78, 84-91 and 181-447 remain in this application for further examination.

### Rejections Under 35 U.S.C. § 103(a)

Claims 1-26, 28-35, 41-78, 84-88, 91, 181-218, 220, 223-265, 268-305, 311-352, 354, 356-393, 399-440, 442 and 444-447 are rejected under 35 U.S.C. § 103(a) as being unpatentable under Etheredge U.S. Patent No. 6,172,674 ("Etheredge") in view of Alexander et al. U.S. Patent No. 6,177,931 ("Alexander"). Claims 36-40, 89, 90, 219, 221, 222, 266, 267, 306-310, 353, 355, 394-398, 441 and 443 are rejected under 35 U.S.C § 103(a) under Etheredge in view of Alexander and Williams et al. U.S. Patent No. 5,977,964 ("Williams"). These rejections are respectfully traversed.

Independent Claims 1, 184, 272 and 360.

Applicants' independent claims 1, 184, 272, and 360 are directed towards a television program guide system that displays a "hot list" of programs to a user. All of the programs identified in the hot list are substantially currently available for viewing by the user. Moreover, all of the programs on the hot list are also based on the preference profile associated with the user.

Applicants have amended claims 1, 184, 272, and 360 herein to more particularly point out and distinctly claim their invention. In particular, applicants have amended these claims to make abundantly clear that both recited features of the hot list programs, namely their viewing availability and their basis on the preference profile, apply to all of the programs on the hot list.

A substantially currently available program is one that is currently broadcasting, about to start (e.g., within a relatively short predetermined period of time on the order of minutes or seconds), or has just started. The user may tune to a substantially currently available program in order to begin viewing it. An illustrative hot list that may be displayed is shown, for example, in FIG. 25 and is described at pages 31 and 32 of applicants' specification.

For example, as described in the specification, when the user is presented with a hot list, the user may "select any of the displayed programs in the list," resulting in "tun[ing the] set-top box to the appropriate channel for the selected

program"<sup>1</sup> (Emphasis added). Unless all of the programs on the hot list were substantially currently available for viewing, the user could not select "any" program, as the set-top box could not tune to a program that was not available for viewing.

This feature of applicants' hot list is further emphasized in applicants' specification, wherein the program guide "removes programs from the hot list 226 when they are no longer viewable"<sup>2</sup> (Emphasis added).

The Examiner correctly acknowledges the novelty of applicants' approaches over the combination of Etheredge and Alexander, stating in concurrence that "[neither] Etheredge nor Alexander teaches that all of the programs identified in the hot list are substantially currently available for viewing by the user."<sup>3</sup> However, the Examiner has taken Official Notice that such a feature is well known in the art, contending that "it would have been well known to show a user programs which are substantially currently available to quickly provide a display and indication of what programs are available at the current time."<sup>4</sup> In support of this Office Notice, Cherrick et al. U.S. Patent No. 5,528,304 ("Cherrick") is provided as an exemplary reference, particularly FIG. 7 therein.

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<sup>1</sup> Specification at page 32, lines 1-5.

<sup>2</sup> *Id.* at page 32, lines 9-10.

<sup>3</sup> July 27, 2004 Office Action at page 16.

<sup>4</sup> *Id.* at page 3.

Although Cherrick's FIG. 7 appears to show a list of programs "substantially currently available for viewing," this figure does not support the Official Notice. The screen depicted in Cherrick is part of a more expansive listing of programs, as evident by the listing of the days of the week and the current time. Hence the user would have had to navigate and/or select both the current day and time in order to view the screen presented in FIG. 7.

Applicants' claimed hot list improves upon all of these shortcomings. When a hot list of the present invention is displayed for the user, all of the programs on the hot list are 1) based on the user's preference profile and 2) substantially currently available for viewing by the user. As a result, the user need not perform any further selection or navigation to identify programs that he/she may choose to view at that moment in time. Such is one of the many advantages of applicants' invention. The Office Action even admits that with a system such as applicants' hot list, "the viewer can easily and quickly detect the actual programming available at the current time," and that such a system is advantageous over "listings of programming over 1-2 hour intervals."<sup>5</sup>

Applicants therefore submit that Cherrick does not support the Official Notice. Moreover, applicants respectfully maintain that a "hot list" would not have been well known in the art, and therefore the Official Notice is not justified.

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<sup>5</sup> *Id.* at page 2.

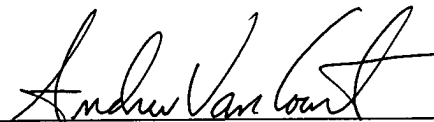
Accordingly, Applicants' submit that independent claims 1, 184, 272 and 360 are patentable over Etheredge and Alexander, either alone or in combination. Moreover, Williams provides no further teaching or suggestion, either alone or in combination with Etheredge and Alexander, that renders claims 1, 184, 272 and 360 unpatentable. Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 2-26, 28-78, 84-91 and 181-183, 185-271, 273-359 and 360-447, which depend from claims 1, 184, 272 and 360 are patentable for at least the same reasons that claims 1, 184, 272 and 360 are patentable. Applicants therefore request reconsideration and withdrawal of these rejections.

**CONCLUSION**

The foregoing demonstrates that claims 1-26, 28-78, 84-91 and 181-447 are allowable. Reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Andrew Van Court", is written over a horizontal line.

Andrew Van Court  
Reg. No. 48,506  
Agent for Applicants

FISH & NEAVE IP GROUP  
ROPES & GRAY LLP  
Customer No. 1473  
1251 Avenue of the Americas  
New York, New York 10020-1105  
Tel.: (212) 596-9000  
Fax: (212) 596-9090